OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Thomas A. Wheat
County Attorney
Liberty, Texas

Dear Mr. Wheat:

O-3646

Opinion No. O-3646

Re: A party who gave a check in pay-
ment of a past-due account when
he did not have funds in the
bank to cover same, and shortly
thereafter filed a petition in
bankruptcy can not be convicted
criminally for giving the check.

We have received your letter of June 3, 1941,
which reads as follows:

"I have a question before me with re-
gard to the acceptance of a complaint in
County Court with regard to a check given by
Mr. W. Price of this town to the Texas Farm
Products Company on January 22, 1941, in the
sum of $39.06. At the time Mr. Price gave
this check, he did not have sufficient funds
in the bank. However, shortly after giving
the check, he applied for and became a volun-
tary bankrupt, and has been discharged in
bankruptcy in the United States District
Court for the Eastern District of Texas.
The Texas Farm Products Company filed their
claim with the Trustee in bankruptcy for the
amount $39.06. The facts show that the
$39.06 was given in payment for a bill of
goods that Mr. Price had received from them
several weeks prior to the time that the
check was given in payment for same.

"The question now arises as to whether
or not, Mr. Price would be criminally liable for

the giving of said check because the same
might be a violation of Article 567-B, that
is, the new 'hot check' law. The pertinent
portion thereof, Section #2, reads as fol-
lows:

" * * *."

As we interpret your inquiry, you desire to know
whether the party named has violated any portion of the
hot check law, being Article 567b, with its subdivisions,
and especially subdivision 2.

Under the facts stated, it is our opinion that
the question should be and is answered no.

APPROVED JUL 3, 1941

FIRST ASSISTANT
ATTORNEY GENERAL

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Geo. W. Barcus
Assistant

GWB-MR

THIS OPINION
CONSIDERED AND
APPROVED IN
LIMITED
CONFERENCE